

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA :
: :
v. : CRIMINAL NO. 06-50 (GMS)
: :
ASHLEY HARRISON :
:

**DEFENDANT ASHLEY HARRISON'S MOTION TO COMPEL
THE GOVERNMENT TO GIVE NOTICE OF ITS INTENTION
TO USE EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS**

Defendant, Ashley Harrison, by and through her counsel, Johanna E. Markind, Esquire, hereby moves this Honorable Court, pursuant to Federal Rule Of Criminal Procedure 12(d)(2), Federal Rules of Evidence 104(a) and (c), and Federal Rule of Evidence 404(b), for an order requiring the Government to give notice of at least two months prior to trial of its intention to introduce as evidence at trial for any purpose including rebuttal, cross-examination or impeachment, the following:

1. Evidence of “other crimes, wrongs, or acts” of the defendant, as that phrase is used Federal Rule of Evidence 404(b), including the issue or issues on which the prosecution believes such evidence is relevant within the scope and meaning of Rule 404(b).
2. Evidence of “other crimes, wrongs, or acts” includes, but is not limited to any and all records and information revealing prior felony convictions or guilty verdicts of juvenile adjudications attributed to defendant as well as any relevant state and/or federal “rap” sheets.
3. At least two months notice in advance of trial is necessary in order to avoid unfair surprise and to give defendant an adequate opportunity to investigate the facts of such allegedly

similar acts or wrongs. In addition, at least two months allows defendant to prepare appropriate motions *in limine* regarding the introduction of such evidence.

4. Disclosure of information the Government intends to use during trial must be timed to enable effective preparation for that trial. *United States v. Polisi*, 416 F.2d 573, 578 (2nd Cir. 1969); *United States v. Baxter*, 492 F.2d 150, 173-174 (9th Cir. 1973), *cert. denied*, 416 U.S. 940 (1974). As pointed out in *United States v. Pollack*, 534 F.2d 964, 973 (D.C. Cir. 1976), *cert. denied*, 429 U.S. 924 (Lumbard, J., sitting by designation):

Disclosure by the government must be made at such a time as to allow the defense to use the favorable material effectively in the preparation and presentation of its case, even if satisfaction of this criterion requires pretrial disclosure.

5. Even assuming due process itself does not require disclosure, the ends of judicial economy, careful trial preparation, and clarity of evidentiary presentation will be greatly benefited by pretrial production of the requests made here.

WHEREFORE, the defendant Ashley Harrison respectfully requests that this motion be granted and that the Government be ordered to notify the defense at least two months prior to trial of what evidence it will seek to introduce pursuant to F.R.E. 404(b).

Respectfully submitted,

Johanna E. Markind, Esquire

CERTIFICATE OF SERVICE

I hereby certify that on this date I served a copy of the foregoing motion upon the following persons by United States first class mail, postage pre-paid, to:

Douglas E. McCann, Esquire (AUSA)
U. S. Attorney's Office
The Nemours Building
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P.O. Box 2046
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Date: July 29, 2006

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ORDER

AND NOW, this ____ day of _____, 2006, upon consideration of defendant Ashley Harrison's motion to compel the Government to give notice of at least two months prior to trial of its intention to introduce as evidence at trial for any purpose including rebuttal, cross-examination or impeachment, evidence of other crimes, wrongs, or acts, it is hereby ORDERED that the motion is GRANTED.

BY THE COURT:

Honorable Gregory M. Sleet, U.S.D.J.